



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 28, 1996

Ms. Kay Ellen Pollack
Assistant City Attorney
Criminal Law and Police Division
City of Dallas
2014 Main, Room 501
Dallas, Texas 75201

OR96-0450

Dear Ms. Pollack:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 33015.

The City of Dallas (the "city") received a request for information concerning a specific arrest/offense report. You state that some of the information has been released to the requestor. You claim, however, that other information may be excepted from required public disclosure under section 552.108 of the Government Code.

Section 552.108 provides that:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure].

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from [required public disclosure].

Where an incident involving allegedly criminal conduct is still under active investigation or prosecution, any proper custodian of information which relates to the incident may invoke section 552.108. Open Records Decision Nos. 474 (1987), 372 (1983). Certain factual information generally found on the front page of police offense reports, however, is public even during an active investigation or prosecution. *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), writ ref'd

n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976) at 3-4 (listing factual information available to public). We stress, however, that it is the type of information that is determinative, not the location of the information on the literal "first page" of an offense report. The remaining information relating to active investigation or prosecution may be withheld under section 552.108.

Although the type of information generally found on the first page of an offense report is usually public information that must be released in accordance with the *Houston Chronicle Publishing Co.* case, this information may be withheld when release would unduly interfere with law enforcement or crime prevention. Open Records Decision No. 508 (1988); *see also* Open Records Decision Nos. 408 (1984), 366 (1983). As the requested information concerns an undercover narcotics investigation, we agree that the city may withhold the identities of the arresting officers and the last two pages of the supplement report under section 552.108 of the Government Code.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Todd Reese
Assistant Attorney General
Open Records Division

RTR/LBC/ch

Ref: ID# 33015

Enclosures: Marked documents

cc: Ms. Johnette Davis
3535 Webb Chapel, Ext. 911
Dallas, Texas 75220
(w/o enclosures)